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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,772	09/15/2003	Yoav Hollander	MR3529-22	7242

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ROSENBERG, KLEIN & LEE  
3458 ELLICOTT CENTER DRIVE-SUITE 101  
ELLICOTT CITY, MD 21043

EXAMINER
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KHATRI, ANIL

ART UNIT	PAPER NUMBER
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2191

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/661,772	<b>Applicant(s)</b> HOLLANDER ET AL.	
	<b>Examiner</b> Anil Khatri	<b>Art Unit</b> 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/15/05</u>  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: *Method and System for Automatically Creating Test and Scenarios*.

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-22 are rejected under 35 USC 101 because they disclose a claimed invention that is an abstract idea as defined in the case *In re Warmerdam*, 33, F 3d 1354, 31 USPQ 2d 1754 (Fed. Cir. 1994).

*Analysis:* Claims 1-22 disclosed by the applicant as being a “method for automatically generating test...” Since the claims are each a series of steps to be performed on a computer the processes must be analyzed to determine whether they are statutory under 35 USC 101.

Examiner interprets the claims 1-22 are non-statutory because they only recites providing plurality of scenarios, selecting and generating test from scenarios without incorporating processing set of instructions and without the computer-readable medium so its functionality can be realized Applicant submits no substance to the claims so its functionality and any practical application can be realized. Therefore, claims 1-22 are not able to produce any useful results are non-statutory and rejected under 35 USC 101.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by *Solloway* USPN 6,708,324.

Regarding claims 1

*Solloway* teaches,

providing a plurality of scenarios, each scenario featuring at least one constraint relating to a relationship with at least one other scenario (column 4, lines 19.., the Test Invocation API 20 is the primary mechanism by which a user may define a test execution scenario. The procedures

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supplied by this API will be utilized within the job file. Within EASY, there are 2 forms of task invocation, direct and support. The direct form of task invocation is used to issue a specific request to schedule a task for execution;

selecting at least one of plurality of scenarios according to at least one constraint (column 2, lines 54-67, the present invention may be implemented using a computer language known as Tool Command Language (TCL). TCL is an interpreted script language that may be used to develop a variety of applications, including graphical user interfaces, prototypes, and other scripts.

Individual testers may create test scripts for testing a specific product or portion of a protocol. These scripts may be written using TCL. This is the extent of the individuality required for each piece of testing software for every product. A common backbone is provided which allows for the automation, extendibility, and maintainability of the test scripts. While individuals still must spend some time interpreting the results and resolving test failure, the present invention greatly improves the automation of testing of products automatically generating the test from at least one selected scenario (column 2, lines 8-21).

Regarding claim 2

*Solloway* teaches,

selecting a number of plurality of scenarios according to meta-data (column 4, lines 19-22, the Test Invocation API 20 is the primary mechanism by which a user may define a test execution scenario. The procedures supplied by this API will be utilized within the job file ; and combining number of plurality of scenarios to form a combined scenario instance (column 6, lines 53-61, When the first task is ready for execution, the SRP will check to see if the testbed is available. If it is not available, the task will stay in a queue. Periodic checks will be exercised

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until the resource is available. Upon the successful reservation of the testbed, the first task will begin execution. When the first task has finished, the reservation of the testbed will be released. It will now be made available to any process trying to obtain it. The same sequence is executed for each task registered to run on a given testbed).

Regarding claim 3

*Solloway* teaches,

one selected scenario comprises a sequence (column 4, lines 19-22, “the test invocation...).

Regarding claim 4

*Solloway* teaches,

at least one selected scenario conflicts with at least one non-selected scenario and wherein meta-data comprises information about conflict (figure 1, column 3, lines 15-31, modular representation of a presently preferred embodiment of the present invention. An execution harness 10 is provided. This execution harness, commonly referred to as the wrapper program, is the mechanism by which a user invokes a test run. The execution harness receives as input one or more job files 12. The job file or files contain the names of each test to be run as well as parameters which may be needed in the running of the test or tests. There is no strict requirement as to the format of these job files. For example, a single job file may contain test names and parameters for multiple tests or multiple job files may contain information only about a single test. The test scripts themselves may also be contained in files that may be referenced during the invocation of EASY. The execution harness 10 may be a TCL program that the user may invoke from a Unix shell command prompt, cron job, or GUI front end, among others).

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Regarding claim 5

*Solloway* teaches,

at least one of plurality of scenarios is performed at least partially according to a configuration of the DUT (column 3, lines 33-47, The tests themselves may be run on one or more hosts 14. The parameters listed in the job file or files 12 may indicate how to coordinate the hosts 14. The execution harness determines if a System Runner Process (SRP) 16 is running on a particular host, The System Runner Process handles the actual connection management, remote/local task execution, task scheduling, resource management, message handling for support processes, task status for real-time querying purposes, and synchronous, asynchronous, parallel, and same process task execution. Generally, each invocation of EASY will require only one SRP, however EASY may frequently be invoked multiple times (for example, multiple users sharing the same set of hosts). Only one SRP needs to be running per host, even if that host is being used by multiple invocations of EASY. If an SRP is not running, one is started, otherwise the harness tries to establish a connection to the running SRP).

Regarding claims 6, 7 and 8

Rejection of claim 1 is incorporated and further claims 6, 7 and 8 recites limitations as in claim 1, therefore claims 6, 7 and 8 are rejected under same rationale.

Regarding claims 9-11

*Solloway* teaches,

generating at least one external file according to at least one scenario (column 3, lines 49-60, The SRP may then spawn one or more Test Runner Processes (TRPs) 18 on one or more of the

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hosts in line with the user's parameters dictated in the job files 12. The TRPs actually run the tests themselves (in the form of the test scripts), using the data in the job files. The TRPs 18 may be invoked on either the local host (the same host as the SRP 16) or on other, remote hosts. When the connection is established to the SRP 16, a resource file is read which indicates the number of Test Runner Processes (TRPs) 18 to start and on which host(s) they should be started on).

Regarding claim 12

*Solloway* teaches,

generating at least one external file is performed before or concurrently with generating test (column 4, lines 57-65, Parallel task execution does not return until all tasks submitted for execution have finished.. A list of task handles will be returned, one for each task executed.

Similar to all the commands, these handles may be used for task query purposes. The On Process sub-command is used for specifying the synchronous execution of a task on a specified process. The process name is simply a unique string that the user wishes to associate with a process).

Regarding claims 13-14

*Solloway* teaches,

external file comprises an HDL (hardware description language) file for configuring the simulation model (also see background of the invention, column 9, lines 25-30, The present invention also provides the user with a mechanism of interrogating the system while jobs and



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tests are running to monitor, query, and interact with a test run in real-time. This mechanism is called the System Viewer Module 32. This facility will initially provide the user with a means of obtaining job and test related information, as well as pausing and resuming task execution by invocation of the pausing/resuming API).

Regarding claims 15-16

Rejection of claim 1 is incorporated and further claim 5 recites limitations as in claim 1, therefore claim 5 is rejected under same rationale.

Regarding claims 17-19

*Solloway* teaches,

each constraint defines a type of expected input variable and a type of operation to be performed on type of expected input variable ( column 8, lines 35-50, A number of advanced features have also been added to the results logging API which assist the user in reporting results from within a complex environment. Most of these features will not be used by the average user. These advanced features include creating a log element (an internal means of identifying a unique instance of storable data), copying a log element, removing a log element, restoring a removed log element, changing the focus of the logging facility (changing the reference amongst multiple logging elements so that different elements' data can be changed from within the same script), and advanced writing features, such as recording data of the latest task or recording data of a specific task. A private internal variable for identifying log element uniqueness is provided in the form of a task index, which is a numerical value beginning at zero

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and is the first element of a 2 dimensional array, where the second element of the array is the name of the variable to store).

Regarding claim 20

Rejection of claim 1 is incorporated and further claim 20 recites limitations as in claim 5, therefore claim 20 is rejected under same rationale.

Regarding claim 21

Rejection of claim 1 is incorporated and further claim 21 recites limitations as in claim 4, therefore claim 21 is rejected under same rationale.

Regarding claim 22

Rejection of claim 1 is incorporated and further claim 22 recites limitations as in claim 13, therefore claim 22 is rejected under same rationale.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**ANIL KHATRI**  
**PRIMARY EXAMINER**